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EXAMINER

SANDY, ROBERT JOHN

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/619,320

Applicant(s)

FOLKMAR, JAN

Examiner

Robert J. Sandy

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-16 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 7-10, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which require the claims must be numbered consecutively beginning with the number next following the highest numbered claims previously presented. The claims on pages 7 and 8 of applicant's originally filed application papers were numbered in the sequence of 8, 9, 10, 11, 12, 13, 12, 13, 14, 15, 16, 17, 18, 19 and 20. However, the claim numbering sequence to claims 12, 13, 14, 15, 16, 17, 18, 19 and 20 is improper. Therefore, misnumbered claims in the sequence of claims 12, 13, 14, 15, 16, 17, 18, 19 and 20 have been renumbered in the proper sequence of 14, 15, 16, 17, 18, 19, 20, 21, and 22. A copy of pages 7 and 8 are included with this Action showing the renumbering. All further reference in this Action to these renumbered claims shall be according to their renumbered claim numeral.

Claim 14 is objected to because in line 1, the phrase "said hinge" should be changed to read as - - each hinge - - .

Claim 16 is objected to because it contains the text "said hinge is a living hinge." in duplicate. Appropriate correction is required.

### ***Specification***

The disclosure is objected to because of the following informalities: On page 1, in the first paragraph under the heading "Background of the Invention", reference to U. S. Patent No. 5,082,677, by Avi Bear and titled "Packaging Means and Method for Shipping Pastries, is not understood how this reference relates to applicant's clip device. It appears that U. S. Patent No. 5,802,677, titled "Bag Closure Clip" by Dorman et al. was intended. Appropriate correction is required.

### ***Double Patenting***

Applicant is advised that should claims 12 and 13 be found allowable, claims 14 and 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 19, line 2, the term "optionally" renders the claim(s) indefinite since it is not clear whether the subject matter of "optionally permitting the entry of a post therein following the snap-engagement of said gudgeon in said gudgeon openings" is encompassed by the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 11-16 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Jio (U. S. Patent No. 5,179,768). Jio ('768) discloses a manual tool comprising a pair of jaws (2,3), each said jaw having an object engaging portion (22, 32) and an actuating portion (21, 31); fulcrum means (4) disposed in spaced apart relation from said object engaging portion and said actuating portion for retaining said jaws in pivoting relationship for movement between a first position and a second position; and spring means (20, 30) for biasing said jaws to said first position; wherein said spring means comprises an arched leaf spring (20, 30) associated with each said jaw, each said leaf spring having a proximal end (respective ends adjacent to element 20 and 30) and a distal end (free end portions thereof);

means (integral hinge at the junction of respective elements 20, 21 and 30, 31) anchoring the proximal end of each said leaf spring to an associated jaw with said springs in symmetrical, contiguous back to back relationship (as shown in Fig. 4);

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whereby the application of a manual force to said actuating portion of said jaws to move said jaws to their second position will serve to deflect said leaf springs and cause a rolling contact (elements 20 and 30 roll onto each other at 202, see Fig. 5) therebetween;

(concerning claim 2) anchoring means comprises a hinge means (integral hinge at the junction of respective elements 20, 21 and 30, 31) and wherein the distal ends bear upon the jaws (i.e. each distal end bears upon the other respective jaw);

(concerning claims 12, 14 and 21) each leaf spring is anchored to an associated jaw;

(concerning claims 13, 15 and 22) each jaw is unitarily formed with its associate leaf spring; and

(concerning claim 16) each hinge is a living hinge.

Claims 1-6, 11-16 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rose (U.S. Patent No. 2, 931,086). Rose ('086) discloses a manual tool as a thermoplastic (i.e., "synthetic resin, for example polyethylene", col. 1, line 50-51) spring clip (see Fig. 1) comprising a pair of jaws (21, 22, 26) having opposed ends, each having a functional-object engaging portion (26) and an actuating portion (21, 22); fulcrum means (23) disposed in spaced relation from the object engaging portion and the actuating portion [of each jaw] for retaining the jaws in pivoting relationship for movement between a first position and a second position; and spring means (24, 25) for biasing the jaws to the first (closed) position; the spring means comprises an arch leaf spring (24, 25) associated with each jaw, each leaf spring having a proximal end and a distal end; means anchoring the proximal end of each leaf spring to an associated jaw with the springs in symmetrical, contiguous back to back relationship; whereby the application of a manual force to the actuating portion of the jaws to move the jaws to their second position will serve to deflect the leaf springs and cause a rolling contact therebetween;

(concerning claim 2) the anchoring means comprises a hinge means, and wherein the distal ends bear upon the jaws;

(concerning claims 3, 4 and 6) the leaf springs and fulcrum means are each formed with the jaws, and are unitarily molded from the thermoplastic material;

(concerning claim 5) the hinge means is a living hinge;

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(concerning claims 12, 14 and 21) each leaf spring is anchored to an associated jaw;  
(concerning claims 13, 15 and 22) each jaw is unitarily formed with its associate leaf spring; and  
(concerning claim 16) each hinge is a living hinge.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jio ('768) in view of Klopp (U. S. Patent No. 3,629,912). Jio ('768) discloses the claimed tool further wherein the leaf springs and the jaws are unitarily molded from plastic; (concerning claim 5) and wherein the hinge means is a living hinge; (concerning claim 6) the fulcrum means is unitarily formed with the jaws. However, Jio ('768) does not disclose wherein the leaf springs and associated jaws are unitarily molded from a thermoplastic material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the tool Jio ('768) of thermoplastic material since Klopp ('912) teaches that thermoplastic material (i.e., "thermoplastic resins", col. 3, line 65) is a well known material for forming plastic clips "because cured plastic formed therefrom have excellent properties including virtual immunity to flex fatigue, exceptional resistance to environmental stress cracking, and outstanding resilience and memory properties.

### ***Allowable Subject Matter***

Claims 7-10, 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spring clip structure is demonstrate by Kuo (U.S. Patent No. 5,165,147), Orson, Sr. (U.S. Patent No. 4,277,864), Langford (U.S. Patent No. 6,397,439), Lin (U.S. Patent No. 5,457,858), Pascoe (U.S. Patent No. 5,413,384), and Searles (U.S. Patent No. 104,654).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ROBERT J. SANDY  
PRIMARY EXAMINER**

Robert J. Sandy  
Primary Examiner  
Art Unit 3677

8. A tool as defined in claim 7 wherein said jaws are substantially identical.

9. A tool as defined in claim 7 wherein said object-engaging portion is a clamping element  
5 biased closed when said jaws are in their first position.

10. A tool as defined in claim 9 wherein said fulcrum means is disposed between said clamping element and said actuating portion.

10 11. A thermoplastic spring clip comprising a pair of jaws having opposed ends, each having a functional portion adjacent one end thereof and an actuating portion adjacent the opposed end, and a fulcrum therebetween;  
spring means biasing said jaws to a position in which said functional portion of one said jaw is in a first desired relationship relative to that of the other jaw;  
15 wherein said spring means comprises an arched leaf spring anchored to each said jaw in symmetrical, back to back, contiguous relationship;  
application of a manual pressure on said actuating portions to move said functional portions to a second relationship serving to compress said leaf springs resulting in a rolling contact therebetween.

20

12. A spring clip as defined in claim 11 wherein each said leaf spring is anchored to an associated jaw by a hinge.

13. A spring clip as defined in claim 11 wherein each said jaw is unitarily formed with its  
25 associated leaf spring.

*Rule 1.126*  
14 ~~12~~. A spring clip as defined in claim 11 wherein each said leaf spring is anchored to an associated jaw by a hinge.

15 ~~13~~. A spring clip as defined in claim 11 wherein each said jaw is unitarily formed with its  
30 associated leaf spring.

16 ~~14~~. A spring clip as defined in claim 12 wherein said hinge is a living hinge.  
said hinge is a living hinge.

*Attachment to paper 06252004*



Rule  
1.126  
cont.

- 17  
15. A spring clip as defined in claim 12 wherein each said jaw is provided with a guide track for its associated leaf spring.
- 5 18  
16. A spring clip as defined in claim 11 wherein said fulcrum comprises a plurality of tabs depending from each said jaw, and wherein said tabs are provided with cooperating, snap together gudgeons and gudgeon openings.
- 19  
17. A spring clip as defined in claim 18 wherein ones of said tabs serve at least in part to  
10 define a central aperture in said jaws, said aperture optionally permitting the entry of a post therein following the snap-engagement of said gudgeons in said gudgeon openings.
- 20  
18. A thermoplastic spring clip comprising a pair of jaws having opposed ends, each having a gripping portion adjacent one end thereof and an actuating portion adjacent the opposed end,  
15 and a fulcrum therebetween;  
spring means biasing said jaws to a position in which said gripping portion of one said jaw is proximate that of the other jaw;  
wherein said spring means comprises an arched leaf spring anchored to each said jaw in symmetrical, back to back, contiguous relationship;  
20 application of a manual pressure on said actuating portions serving to compress said leaf springs resulting in a rolling contact therebetween.
- 21  
19. A spring clip as defined in claim 20 wherein each said leaf spring is anchored to an associated jaw by a hinge.
- 25  
22 20. A spring clip as defined in claim 21 wherein each said jaw is unitarily formed with its associated leaf spring.

Attachment to paper 06252004